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State/Territory Name: Kansas

State Plan Amendment (SPA)#:KS-23-0030

This file contains the following documents in the order listed:

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850

Center for Medicaid and CHIP Services

Medical Benefits and Health Programs Group

September 21, 2023

Sarah Fertiq
State Medicaid Director
KDHE, Division of Health Care Finance
Landon State Office Building
900 SW Jackson, Room 900-N
Topeka, KS 66612-1220

Dear Sarah Fertiq:

The CMS Division of Pharmacy has reviewed Kansas's State Plan Amendment (SPA) 23-0030 received in the CMS Medicaid & CHIP Operation Group on July 7, 2023.This SPA proposes to update the language on the state's Prescribed Drugs Limitations list on the Pharmacy state plan coverage pages.

Based on the information provided and consistent with the regulations at 42 CFR 430.20, we are pleased to inform you that SPA 23-0030 is approved with an effective date of July 1, 2023. Our review was limited to the materials necessary to evaluate the SPA under applicable federal laws and regulations.

We are attaching a copy of the signed CMS-179 form, as well as the page approved for incorporation into Kansas's state plan. If you have any questions regarding this amendment, please contact Charlotte Hammond at (410) 786-1092 or charlotte.hammond@cms.hhs.gov.

Sincerely,

[redacted]

Mickey Morgan
Deputy Director
Division of Pharmacy

cc: William Stelzner, Division of Health Care Finance, Kansas Department of Health
Michala Walker, CMS Division of Program Operations - North Branch

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 23 — 0030

2. STATE: KS

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
July 1, 2023

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR 440

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2023 $ 0
b. FFY 2024 $ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT
Attachment 3.1-A, #12.a., Pages 2, 2a, 3, 4, [6 (new)]

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)
Attachment 3.1-A, #12.a., Pages 2, 2a, 3, 4, [7, 8 to new Page 6]
Attachment 3.1-B, Page 4b-4c [For Removal]

9. SUBJECT OF AMENDMENT

The Pharmacy benefit section of the Medicaid State Plan will be revised as instructed by CMS Pharmacy. Other updates to the Pharmacy benefit section are being made to remove duplicated sections and gaps in pagination.

10. GOVERNOR'S REVIEW *(Check One)*

- ☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
- ☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
- ☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
- ☑ OTHER, AS SPECIFIED: Sarah Fertig is the Governor's Designee

[redacted]TE AGENCY OFFICIAL

12. TYPED NAME
Sarah Fertig

13. TITLE
State Medicaid Director

14. DATE SUBMITTED
July 7, 2023

15. RETURN TO
Sarah Fertig, State Medicaid Director
KDHE, Division of Health Care Finance
Landon State Office Building
900 SW Jackson, Room 900-N
Topeka, KS 66612-1220

FOR CMS USE ONLY

16. DATE RECEIVED
7/7/2023

17. DATE APPROVED
9/21/2023

PLAN APPROVED - ONE CO

18. EFFECTIVE DATE OF APPROVED MATERIAL
7/1/2023

19. SI[redacted]

20. TYPED NAME OF APPROVING OFFICIAL
MICKEY MORGAN

21. TITLE OF APPROVING OFFICIAL
DEPUTY DIRECTOR, DIVISION OF PHARMACY

22. REMARKS

Instructions on Back

INSTRUCTIONS FOR COMPLETING FORM CMS-179

Use Form CMS-179 to transmit State plan material to the Center for Medicaid & CHIP Services for approval. Submit a separate typed transmittal form with each plan/amendment.

Block 1 - Transmittal Number - Enter the State Plan Amendment transmittal number. Assign consecutive numbers on a **calendar year** basis with the first two digits being the two-digit year (e.g., 21-0001, 21-0002, etc.). Because states have different state fiscal years, a calendar year is required for consistency.

Block 2 - State - Enter the two-letter abbreviation code of the State/District/Territory submitting the plan material.

Block 3 - Program Identification - Enter the applicable Title of the Social Security Act (Title XIX Medicaid or Title XXI CHIP).

Block 4 - Proposed Effective Date - Enter the proposed effective date of material. The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted. With respect to expenditures for assistance under such plan, the effective date may not be earlier than the first day on which the plan is in operation on a statewide basis or earlier than the day following publication of notice of changes.

Block 5 - Federal Statute/Regulation Citation - Enter the appropriate statutory/regulatory citation.

Block 6 - Federal Budget Impact - 6(a) - IN WHOLE DOLLARS, NOT IN THOUSANDS, Enter 1st **Federal Fiscal Year** (FFY) impacted by the SPA & estimated Federal share of the cost of the SPA for 1st FFY. The first FFY should be the FFY inclusive of the earliest effective date of any amended payment language; **6 (b)** - Enter 2nd FFY impacted by the SPA & estimated Federal share of the cost for 2nd FFY. In general, the estimates should include any amount not currently approved in the state's plan for assistance.

Block 7 - Page No.(s) of Plan Section or Attachment - Enter the page number(s) of plan material amended and transmitted. If additional space is needed, use bond paper. **New pages** should be included in Block 7, but not in Block 8.

Block 8 - Page No.(s) of the Superseded Plan Section or Attachment (if Applicable) - Enter the page number(s) (including the transmittal number) that is being superseded. If additional space is needed, use bond paper. **Deleted pages** should be included in Block 8, but not in Block 7.

Block 9 - Subject of Amendment - Briefly describe plan material being transmitted.

Block 10 - Governor's Review - Check the appropriate box. See SMM section 13026 A.

Block 11 - Signature of State Agency Official - Authorized State official signs this block.

Block 12 - Typed Name - Type name of State official who signed block 11.

Block 13 - Title - Type title of State official who signed block 11.

Block 14 - Date Submitted - Enter the date that the state transmits plan material to CMCS. Unless the state officially withdraws this SPA and then resubmits it, this date should not be revised. Documentation of version revisions will be maintained in the CMCS administrative record.

Block 15 - Return To - Type the name and address of State official to whom this form should be returned.

Block 16–22 (FOR CMS USE ONLY).

Block 16 - Date Received - Enter the date plan material is received by CMCS. This is the date that the submission is received by CMCS via the subscribed submission process.

Block 17 - Date Approved - Enter the date CMCS approved the plan material.

Block 18 - Effective Date of Approved Material - Enter the date the plan material becomes effective. If more than one effective date, list each provision and its effective date in Block 22 or attach a sheet.

Block 19 - Signature of Approving Official - Approving official signs this block.

Block 20 - Typed Name of Approving Official - Type approving official's name.

Block 21 - Title of Approving Official - Type approving official's title.

Block 22 - Remarks - Use this block to reference and explain agreed to changes and strike-throughs to the original CMS-179 as submitted, a partial approval, more than one effective date, etc. If additional space is needed, use bond paper.

Prescribed Drugs Limitations

☒ (a) Select agents when used for anorexia, weight loss, or weight gain, as set forth in policy and publicly available.

☐ (b) agents when used to promote fertility

☒ (c) Select agents when used for the symptomatic relief of cough and colds, as set forth in policy and publicly available.

☒ (d) Select prescription vitamins and mineral products, (except prenatal vitamins and fluoride) as set forth in policy and publicly available.:

☒ (e) Select nonprescription drugs as set forth in policy and publicly available.

Prescribed Drugs Limitations

☐ (f) covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee

☒ (g) Select Active Pharmaceutical Ingredients (APIs) and excipients used in extemporaneously compounded prescriptions will be covered when dispensed by a pharmacy provider pursuant to a prescription issued by a licensed prescriber, as set forth in policy and publicly available.

These drugs and drug categories are covered for dual individuals to the same extent and with the same restrictions and limitations as they are covered for Medicaid-only individuals.

Prescribed Drugs Limitations

The maximum quantity of medication that will be reimbursed for any prescription is a 31 day supply. Select medications may be dispensed for up to a 90 days' supply for all beneficiaries, according to the 90-day maintenance supply drug list in policy and publicly available.

Pharmacy services related solely to non-covered transplant procedures are non-covered.

There will be a limit of four (4) brand name prescription claims allowed per beneficiary per month. The exclusions to this policy are: KBH beneficiaries, antiretroviral drugs, anti-rejection drugs used by transplant patients, chemotherapy drugs, antiemetics, interferon, immune globulins, antipsychotics, antidepressants, stimulants, antihemophilic drugs, all contraceptives, drugs on the preferred drug list, and any product in the supplemental rebate program. Pharmacists may utilize an override code to exceed the monthly prescription limit for adult Medicaid recipients if the physician requests additional brand name drugs due to a medical necessity. Children from birth to age 21 will continue to receive an unlimited number of Medicaid-covered prescriptions per month.

Prescribed Drugs

Kansas shall provide reimbursement for covered outpatient drugs when prescribed by a licensed provider within the scope of their license and practice as allowed by State law within the meaning of Section 1927(k) of Title XIX of the Social Security Act. This will apply to drugs of any manufacturer that has entered into and complies with a rebate agreement with the federal Centers for Medicare and Medicaid Services. The Department may require prior authorization for the reimbursement of any covered outpatient drugs as allowed under the provisions of Section 1927(d)(5) of the Social Security Act. Pursuant to 42 U.S.C. Sec. 1396r-8 and 2002 Session Laws of Kansas, Chapter 180, the state is establishing a preferred drug list with prior authorization for drugs not included on the preferred drug list. Prior authorization will be provided with a 24-hour turn-around from receipt of request and a 72 hour supply of drugs in emergency circumstances.

For certain classes of drugs, the process for deciding which drugs will be included on the preferred drug list (of those determined to be of similar safety, effectiveness, and clinical outcomes) will include a comparison of net drug cost. Net drug cost is determined considering published drug wholesale prices, national average drug acquisition costs, and rebates to the states.

The Director or Division of Health Care Finance will appoint a Preferred Drug List Committee to utilize the Drug Utilization Review Board in accordance with federal law. The committee consists of five (5) physicians and four (4) pharmacists who actively practice within the scope of their license in the state of Kansas.